

REMARKS

Claims 31-34, 43 and 46-73 were pending in this application. Claims 31, 43, 46, 58, 60, 61 and 63-73 are currently amended. Claims 32-34, 47-48, 55-57, 59 and 62 are currently cancelled.

Claim 31 is currently amended to incorporate the limitations of claims 32-34; therefore, claims 32-34 are cancelled. Additionally, the group " $-N^{\oplus}R_{14}R_{15}R_{16}$ ", which was present in original claim 34, is deleted from amended claim 31.

Claim 46 is currently amended to incorporate the limitations of claims 34 and 47-48; therefore, claims 47 and 48 are cancelled. Additionally, the group " $-N^{\oplus}R_{14}R_{15}R_{16}$ ", which was present in original claim 34, is deleted from amended claim 46.

Claims 43 and 66-73 are currently amended to change "formula (1)" to "formula (1a)" in order to be consistent with amended claim 46.

Claims 58, 60, 61 and 63 are currently amended to correct dependency.

The proviso statements contained in claims 31 and 46 are currently amended to be consistent with amended formula (1a).

No new matter is added.

Claims 31, 43, 46, 49-54, 58, 60, 61 and 63-73 are presented for consideration.

Claim Rejection – 35 USC 102(e)

Claims 31-34, 43 and 46-73 are rejected under 35 USC 102(e) as being anticipated by commonly assigned WO 02/088289.

The instant application pertains to the use of certain metal complexes which have terpyridine ligands that contain at least one quarternized nitrogen atom not bonded to one of the three pyridine rings as oxidation catalysts while WO 2002/088289 pertains to the use of certain metal complexes which have terpyridine ligands as oxidation catalysts.

Claim 31 is currently amended to incorporate the limitations of claims 32-34; therefore, claims 32-34 are cancelled. Additionally, the group " $-N^{\oplus}R_{14}R_{15}R_{16}$ ", which was present in original claim 34, is deleted from amended claim 31.

Claim 46 is currently amended to incorporate the limitations of claims 34 and 47-48; therefore, claims 47 and 48 are cancelled. Additionally, the group " $-N^{\oplus}R_{14}R_{15}R_{16}$ ", which was present in original claim 34, is deleted from amended claim 46.

The instant claims are currently amended to delete any quarternized nitrogen atom that is directly bonded to one of the three pyridine rings. Hence, the instant invention pertains to metal complexes which have terpyridine ligands that contain at least one quarternized nitrogen atom not bonded to one of the three pyridine rings as oxidation catalysts. Therefore, a clear line of demarcation exists between the present application and WO 02/088289. Additionally, the proviso phrases in claims 31 and 46 address any anticipation between WO 2002/088289 Example 8b and the instant invention. Therefore, the instant invention is not anticipated by WO 02/088289.

The present 35 USC 102(e) rejection is addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejection.

Respectfully submitted,



for

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